

ATTACHMENT D

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

SATELLITE BROADCASTING &)	
COMMUNICATIONS ASSOCIATION)	
OF AMERICA, <u>et al.</u>)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 00-1571-A
)	
FEDERAL COMMUNICATIONS COMMISSION,)	
<u>et al.</u> ,)	
)	
Defendants,)	
)	
and)	
)	
NATIONAL ASSOCIATION OF)	
BROADCASTERS, <u>et al.</u>)	
)	
Defendant-Intervenors.)	

DECLARATION OF JEFFREY H. ROHLFS

JEFFREY H. ROHLFS declares and states as follows:

1. I am a founding principal of Strategic Policy Research, Inc. ("SPR"), located in Bethesda, Maryland. I am an economist who specializes in the telecommunications and mass media industries. I have been a consultant since 1983. This experience has included substantial consulting regarding television broadcasting, cable television, and satellite services. In particular, I pioneered the use of Tobin's q-ratio as a means of assessing the market power of cable-television companies—a methodology that was subsequently employed by the Federal Communications Commission ("FCC") and the U.S. Department of Justice ("DOJ"). I also served as an expert witness for DOJ in the cable must-carry case (*Turner Broadcasting System,*

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Inc. v. FCC).¹ Prior to my career in consulting, I spent 14 years at Bell Labs, rising to Department Head of Economic Modeling Research. From 1979 to 1981, I was Management of Microeconomic Analysis at AT&T. I have substantial international consulting experience and have numerous publications, including theoretical, empirical, and policy analyses. A short version of my curriculum vitae is attached to this Declaration as Exhibit A.

2. I was retained by DOJ to undertake an analysis of the economic consequences of the Satellite Home Viewer Improvement Act of 1999 (“SHVIA”). In particular, I investigate whether SHVIA effectively promotes competition in the market for multi-channel video programming in order to reduce costs to consumers. For the reasons set out below, I conclude that SHVIA promotes this goal, and avoids inflicting harm on the system of television broadcasting. In addition, I find that the licensing scheme created by SHVIA is structured to minimize any burdens on DBS suppliers.

I. BACKGROUND

A. DBS Services Today

3. DBS suppliers today offer hundreds of channels, including national cable channels, regional channels, music channels, sports packages, pay-per-view, and local channels. They charge monthly fees for the programming. These charges are over and above installation costs and cost of hardware that resides on customers’ premises.

4. To obtain DBS service, a subscriber buys or rents a small (18-to-24-inch) parabolic “dish” antenna, which is mounted on or near the home. A subscriber also must buy or

¹ 520 U.S. 100 (1997).

rent a set-top box to convert the incoming digital signal to an analog format viewable on the television receiver.

5. DBS operators have begun retransmitting local broadcast channels in many markets. As of March 2001, DirecTV offered local channels in 41 markets. It provided affiliates of the four major networks in all 41 markets, plus one or two additional channels in several of those markets.² DirecTV local channel service, where available, costs an additional \$5.99 per month. EchoStar's DISH Network offers local channels in about 35 markets.³ It provides the four network affiliates in all of those markets, plus one or two additional channels in several of those markets. EchoStar's local channel service, where available, costs an additional \$4.99 per month.⁴

B. DBS Suppliers

6. DirecTV and EchoStar are the two dominant companies that provide DBS service in the United States. DirecTV is currently the market leader, having almost twice as many subscribers as EchoStar. DirecTV had over 8.3 million subscribers by the end of first quarter 2000, an increase of almost 73 percent from the 4.8 million reported for first quarter 1999. Of that increase, some were former "PrimeStar by DirecTV" subscribers who migrated from medium-power to high-power service beginning in the second quarter 1999.⁵ By the end of the

² Sky Report, "Local TV Channels by Satellite" (as of March 6, 2001) at <http://skyreport.com/skyreport/local.htm> (downloaded April 19, 2001). Baylor Deposition at 51.

³ Petruzzelli Deposition at 38-39.

⁴ Sky Report, "Local TV Channels by Satellite" (as of March 6, 2001) at <http://skyreport.com/skyreport/local.htm> (downloaded April 19, 2001).

⁵ Supplemental Response of Plaintiffs DirecTV Enterprises, Inc., DirecTV Operations, Inc. and DirecTV, Inc. to Federal Defendants and Intervenor-Defendants' Consolidated First Set of Interrogatories.

first quarter 2001, subscribership had increased to 9.8 million,⁶ an 18 percent increase over the previous year (including subscribers migrated from Primestar).

7. EchoStar had 4.3 million subscribers in June 2000—a 65 percent increase from June 2000.⁷ By December 2000, estimated subscribership had increased to 5.26 million, an increase of 54 percent over December 1999.⁸

8. The FCC reported that the growth rate for DBS subscribers between June 1999 and June 2000 was 28.9 percent. By way of comparison, the growth rate for cable subscribers over the same time period was 1.5 percent.⁹ Total subscribership of Primestar, EchoStar and DirecTV in February 2001 was estimated to be 15.3 million,¹⁰ a 29 percent increase over February 2000.

C. History of the Industry

9. Prior to SHVIA, DBS had a statutory license to retransmit the signals of distant network stations only to households that could not, using outdoor rooftop antennas, receive over-the-air signals of a specified strength from local broadcast TV stations.

10. In 1999, under SHVIA, satellite companies were given a royalty-free license to provide local broadcast TV signals to all subscribers within the local station's market ("local-into-local"). Satellite companies have, with few exceptions, carried only the local network affiliates of the major networks (ABC, CBS, Fox and NBC). As of May 30, 2000 the satellite

⁶ *Ibid.*

⁷ FCC, *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming* (CS Docket No. 00-132) released January 8, 2001 ("FCC Cable Competition Report") at ¶ 63.

⁸ EchoStar Press Release, *EchoStar Reports Record Results for Fourth Quarter 2000* (<http://www.dishnetwork.com>, downloaded March 13, 2001).

⁹ FCC Cable Competition Report, at Table C-1.

¹⁰ Sky Report, US DTH Subscribers" at http://www.skyreport.com/dth_us.htm (downloaded April 18, 2001).

carriers had to obtain retransmission consent from local broadcasters in order to continue carriage.

11. The recent substantial increase in DBS subscribership is largely attributable to these offerings of local-into-local service. A DBS industry analysis showed that DBS subscriber growth increased 43 percent more during the six months after SHVIA was enacted than during the six months prior to SHVIA.¹¹

II. TECHNOLOGY FOR RETRANSMISSION OF LOCAL SIGNALS

12. The arrangements for retransmission of local signals are fairly straightforward in principle, although they involve some technical complexity. Basically, the signal must be taken from the local broadcaster, carried to the satellite carrier's "uplink center" where it is sent to the satellite, and then transmitted down to the intended receivers.

13. Once the signals reach the satellites from the carrier's "uplink center," they are shifted in frequency to the 12 GHz (Ku) band for retransmission to the end users. The FCC authorization for this downlink band allows for 32 frequencies, each containing about 30 MHz of spectrum, to be utilized at each orbital location. For this purpose, there are three available orbital locations that can cover the entire United States. The total capacity at these three locations is 96 frequencies.¹² These are divided between the two carriers—EchoStar and DirecTV; 50 are held by EchoStar and 46 by DirecTV. These 96 channels can be broadcast to

¹¹ FCC Cable Competition Report at ¶ 69 (citing Skytrends study).

¹² In addition to the satellites at full-continental-U.S. ("CONUS") orbital slots, EchoStar also has a satellite at 61.5° west longitude that is used to transmit to subscribers east of the Rocky Mountains. [Schwimmer Declaration at ¶ 12.] EchoStar also has acquired 24 frequencies that will be used to transmit to subscribers west of the Rocky Mountains. [Schwimmer Declaration at ¶ 13.]

the entire continental United States, with the reception patterns of individual users being determined by software settings in their receivers.¹³

14. EchoStar currently uses a compression ratio of 10 to 1.¹⁴ Thus, it can transmit 500 channels over its 50 frequencies. This compression ratio is, however, less than what the technology permits. The compression technology used by DirecTV allows 500 channels to be transmitted over their 46 frequencies.¹⁵ This corresponds to a compression ratio of approximately 11 to 1.

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EchoStar currently devotes 140-145 channels to local service, covering 35 markets,¹⁷ while DirecTV devotes 175 channels to local service and serves 41 markets.¹⁸

15. Technological advances in the form of spot-beam satellites, some of which will be deployed before the end of the year, expand the capability of DBS suppliers to provide local service.

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¹³ End users throughout the continental United States can receive signals from all three satellites by using an inexpensive oblong antenna that is only slightly larger than the standard 18-inch dish for accessing a single satellite. (Baylor Deposition at 55-59 and 186-187; Petruzzelli Deposition at 176.) I will therefore treat the capacities in aggregate, rather than detailing the number of frequencies held by each carrier at each orbit allocation.

¹⁴ Declaration of Michael Schwimmer (VP of Programming for EchoStar), at ¶ 8; Petruzzelli Deposition at 31-33.

¹⁵ Declaration of Stephanie Campbell (Senior VP of Programming of DirecTV) at ¶ 10.

¹⁶ Baylor Deposition at 21, 101-102.

¹⁷ Petruzzelli Deposition at 38-39.

¹⁸ Baylor Deposition at 54 and 51.

16. Each DBS satellite discussed above has a single downward beam that covers the entire continental United States. Thus, if a particular channel is used, for example, to carry a Washington, D.C. broadcast station, the channel is transmitted nationwide even though only viewers in the Washington DMA can access it. All other receivers are blinded to it. Spot beams are a means of making more efficient use of the spectrum. Spot beams are achieved by deploying multiple transponders operating at the same frequency, and aiming each transponder at a small area by means of a directional antenna. Because the signal is targeted at a small area, the same frequency may be "reused" in other geographic areas.

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18. EchoStar has two spot-beam satellites planned—EchoStar 7 and 8. EchoStar 7 and 8 are spot-beam satellites planned for launch at the end of this year and expected to be operational by January 1, 2002.²⁴ EchoStar 7 is planned for use at 119° WL where EchoStar has authorization to use 21 frequencies. EchoStar 8 is planned for use at 110° WL where EchoStar has authorization for 29 frequencies.

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21. In any event, evaluation of the economic consequences of SHVIA's licensing scheme should rest on a fairly long-term view of technological possibilities. The statute is to be binding for a long time, and economic evaluation should not be based on too short a time horizon. It should take into account foreseeable improvements in satellite and electronic technology.

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III. BACKGROUND ON THE LOCAL TELEVISION BROADCAST INDUSTRY,
THE CABLE COMPULSORY LICENSE, AND THE SATELLITE
COMPULSORY LICENSE

A. The Local Television Broadcast Industry

22. Currently, Nielsen lists a total of 1,932 commercial and educational stations in
210 DMAs.³¹

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23. In the 210 DMAs, about 1,468 stations may be eligible for carriage under SHVLA
(if they deliver an acceptable signal and do not opt for retransmission consent).

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³¹ Designated Market Areas, Section II, Nielsen Media Research Data, 2000-2001.

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³² In these markets, 353 were affiliated with the top four networks: ABC, CBS, Fox and NBC. Additionally there were 446 commercial stations not affiliated with the top four networks. Some of these stations are affiliated with the newer networks WB, UPN and Pax. Some are associated with the Spanish networks Univision or Telemundo. Some are not affiliated with any network. There are also 178 public stations in these markets.

Among these stations are low-power stations—which are generally commercial stations not affiliated with the top four networks—and satellite stations, each of which primarily rebroadcasts the signals of another broadcast station. Currently there are 139 such stations in the top 75 DMAs. These stations are not eligible for carriage under SHVLA.

B. Cable Must-Carry and Compulsory License for Local Signals

24. The FCC first imposed must-carry obligations on cable systems in 1965. These rules required cable systems to carry the signal of any local television station that was “significantly viewed” and that requested carriage. The primary objective of the rules was to protect local broadcast stations, especially the newer UHF stations which lacked the signal coverage and quality enjoyed by the more established VHF stations. The Commission’s concern was that, in the absence of a must-carry obligation, cable systems would not carry these “weaker” stations and that cable subscribers would disconnect or not maintain their off-air antennas thereby putting these stations at a further competitive disadvantage.

25. Due to overlapping signals, some cable systems were required to carry more than one affiliate of the same network. Furthermore, smaller cable systems often had to devote a large percentage of their available bandwidth to must-carry stations. Although the FCC’s rules allowed for waivers, few were actually granted.

26. In 1980, the Turner Broadcasting System (owner of Atlanta’s WTBS, the cable “superstation”) petitioned the FCC to remove the must-carry rules, arguing that they had the effect of crowding out the other program services. The FCC denied the Turner petition, and Turner appealed. In 1982, the FCC ordered the operator of the cable system in Quincy, Washington to carry the signals of certain Spokane television stations and levied a fine for failure to do so. Quincy Cable appealed the FCC’s order and its appeal was consolidated with the appeal in the Turner case.

27. In 1985, the Court of Appeals (DC Circuit) struck down the must-carry rules, as drafted, holding that they violated the First Amendment.³⁶ A year later, with encouragement from Congress, the FCC adopted a new set of must-carry rules. These rules limited the amount of channel capacity that had to be devoted to carrying local broadcast signals (especially for small cable systems), modified the viewing standard, eliminated the requirement to carry duplicate network affiliates and reduced the number of noncommercial stations that had to be carried. The Commission also made the rules temporary. They would last five years during which time cable operators would be required to install input selector devices (or “A/B switches”) to facilitate viewers’ switching between cable and off-air reception.

28. These new rules were immediately challenged and overturned by the DC Circuit which held that the Commission’s revised rules were not adequately supported by evidence in the record. The Court specifically said that it was not suggesting that the rules were *per se* unconstitutional or beyond the FCC’s authority to regulate cable systems to advance substantial government interests.³⁷

29. A must-carry obligation was re-imposed by Congress in the Cable Act of 1992. Broadcast stations were given the choice of negotiating the terms of compensation for carriage in return for their consent to have their signals retransmitted (“retransmission consent”) or of asserting their right to be carried (for which they could not be compensated). While permitting negotiations between broadcasters and cable operators for retransmission consent, Congress preserved must-carry expressly to protect weaker stations in local markets that might be unable

³⁶ *Quincy Cable TV, Inc. v. FCC and Turner Broadcasting System Inc. v. FCC*, 768 F.2d 1434, 58 R.R.2d 977 (D.C. Cir. 1985).

³⁷ *Century Communications Corporation v. FCC*, 835 F.2d 292, 64 R.R.2d 113 (D.C. Cir. 1987), cert. denied, 486 U.S. 1032 (1988).

to make beneficial arrangements for carriage. Congress adopted a must-carry regime that borrowed heavily from the FCC's 1986 rules in limiting the capacity that cable systems are required to devote to must-carry signals (based on the size of the system) and relieving cable operators of the obligation to carry duplicate stations.

30. The FCC issued new rules in March, 1993 implementing both the must-carry and retransmission consent provisions of the 1992 Cable Act. These rules were also challenged, but were ultimately upheld by the Supreme Court.³⁸ As a result, cable systems are today subject to must-carry obligations.

31. Under the cable compulsory license, cable systems may retransmit television signals containing copyrighted materials without having to obtain permission from the copyright holders. Virtually no royalties are assessed under the Copyright Act for the carriage of any signal within the area in which the station had a right to be carried under the FCC's must-carry rules. The rationale for assessing no royalties was that carriage of broadcast signals by cable operators in their local markets (mandated by the FCC's rules) did not warrant additional compensation of the copyright holders who had already sold the rights for those markets.

32. This scheme has the effect of denying copyright holders any royalties to reflect the benefit that their material provides to cable operators. In particular, many cable subscribers are willing to pay higher monthly charges because the cable system carries the copyrighted material from local television broadcasts. These benefits to cable operators are apart from the advertising benefits for which copyright holders are compensated. Neither cable operators nor broadcasters pay any royalties that would allow copyright holders to share in the monthly

³⁸ *Turner Broadcasting System, Inc. v. FCC* (93-44), 512, U.S. 622 (1994).

charges to which their material contributes. Thus, cable companies were given a royalty-free copyright license. This free ride provides considerable compensation which offsets the cost of compliance with the must-carry obligations to which cable operators are subject.³⁹

C. The Satellite Compulsory License

33. In the mid-1980s, copyright liability for programming being retransmitted by satellite dish owners had become a significant legal and policy issue. The programming in question was carried in feeds by the television networks to their broadcast affiliates and in signals of non-network (“independent”) stations that were being distributed by satellite carriers to cable systems. The issue came to a head in 1988 when a federal court ruled that DBS distributors were not entitled to rely on the cable compulsory license. This decision led to the passage later that year of the Satellite Home Viewer Act of 1988 (“SHVA”) which established a “temporary” license for satellite retransmission of distant broadcast stations. The license was to sunset after five years. The license to transmit station signals was limited to dish owners not served by broadcast stations over the air or via cable.

34. In the words of Congress, “[t]he 1988 Act fostered a boom in the satellite television industry.”⁴⁰ DBS service commenced and C-band dishes began to be replaced by smaller, less costly Ku-band antennas. The compulsory license was renewed in 1994 for an additional five years. At this time, concerns surfaced about the delivery of local network stations to

³⁹ In theory, copyright holders could bargain for higher license fees from broadcasters because the latter receive compensation for retransmission consent. In reality, however, most broadcasters have been unable to negotiate *any* monetary payments from cable companies. Compensation for retransmission consent generally consists *entirely* of non-monetary considerations, such as carriage of non-broadcast programming by the cable system. It seems unlikely that these considerations translate into much indirect compensation for copyright holders. The low level of compensation for retransmission consent reflects the great bargaining leverage of cable operators relative to that of broadcast stations. It does *not* reflect the bargaining leverage that copyright holders, who may control highly-sought material, would have absent must-carry and the compulsory license.

⁴⁰ Conference Report at 91.

satellite subscribers who were otherwise able to receive an adequate off-air signal. These concerns mounted as did concerns that, without effective access to local signals, DBS was at a competitive disadvantage with cable.

35. In 1999, Congress enacted the SHVIA. In passing this new law, which extended the compulsory license to local signals that were retransmitted into their local markets (“local-into-local”), Congressional goals included the following⁴¹: (1) The promotion of competition in the delivery of multichannel video programming; and (2) Avoiding inflicting harm on the system of broadcast localism.

36. SHVIA roughly parallels the copyright licensing scheme applicable to cable operators, but there are important differences. Among them, SHVIA creates a statutory license, like the statutory license created for cable operators, authorizing secondary transmissions of television broadcasts by DBS suppliers in a broadcast television station’s local market without the need for securing authorization of individual copyright owners. Subject to certain limitations, SHVIA (like the cable must-carry provisions) requires DBS suppliers (who choose to utilize the statutory license) to carry upon request the signals of all television broadcast stations within that local market. However, SHVIA contains an important limitation that recognizes the practical differences between the cable and DBS industries.⁴² SHVIA’s carriage provisions, unlike the cable must-carry requirements, apply on a market-by-market basis.⁴³ Therefore, DBS suppliers may choose whether to incur carriage obligations in a particular market in exchange for the benefits of the statutory license.

⁴¹ Conference Report at 101.

⁴² Conference Report at 92.

⁴³ Conference Report at 100.

37. If DBS operators elect to exercise this additional option in a particular market after January 1, 2002, they incur the obligation to carry any eligible local broadcast signal in that market if the broadcaster requests carriage. Until January 1, 2002, the Act provides DBS suppliers with a royalty-free copyright license to retransmit broadcast signals on a station-by-station basis, assuming they obtain retransmission consent.⁴⁴

38. The FCC points out that the authority to offer local-into-local service that was granted by SHVIA has spurred a “significant increase in DBS subscribership.”⁴⁵ As I discuss in detail below, satellite carriers have benefited substantially from the very law they now seek to invalidate.

IV. OBJECTIVES OF SHVIA

39. Congress set out its goals clearly in enacting SHVIA. First, Congress sought to promote competition in the multichannel video market. Its ultimate objective was to reduce prices for consumers by enabling satellite carriers to compete more effectively with the established cable company in any particular local market.⁴⁶ This is achieved by facilitating the retransmission of local broadcast signals in those local markets. Congress sought to accomplish this objective by tailoring a copyright licensing regime for satellite that was as similar as possible to the one that exists for cable while taking into consideration the differences in the

⁴⁴ As in the cable context, copyright holders can, at least in theory, bargain for higher license fees because broadcasters charge DBS suppliers for retransmission consent. In practice, charges to DBS suppliers for retransmission consent (unlike charges to cable operators) have involved monetary payments, but the payments have been moderate. Thus, copyright holders may derive a moderate indirect benefit from DBS carriage of their material. In any event, the level of charges for retransmission consent reflects the bargaining leverage of DBS operators relative to that of broadcasters. It does not reflect the bargaining leverage that copyright holders, who may control highly-sought material, would have absent the compulsory license.

⁴⁵ FCC Cable Competition Report at ¶¶ 68-69.

⁴⁶ Conference Report at 92.

distribution technologies involved. In particular, DBS suppliers get the same royalty-free copyright license (for local signals) that cable operators have.

40. While extending the compulsory license to satellite retransmission of local signals to “level the playing field” with cable, Congress also sought to avoid inflicting harm on the system of local television broadcasting. In this regard, the Conference Committee reasserted the importance of protecting and fostering the system of television broadcasting as it relates to the concept of localism. Here, Congress was concerned about the continued provision of programming tailored to local needs.⁴⁷ Congress was especially concerned about those households that rely on over-the-air broadcasting because they either cannot—or choose not—to subscribe to cable or DBS.

41. Congress structured the statutory copyright license in a manner designed to avoid any unintended adverse effect that might undermine the goals of preserving free television and promoting widespread dissemination of information from a multiplicity of sources. It was concerned that local communities continue to have multiple broadcast outlets, while at the same time benefiting from the availability of the additional multi-channel options provided by satellite and cable. The Conference Committee found that providing the license on a market-by-market basis would further both goals by preventing satellite carriers from choosing to carry only certain stations and effectively preventing many other local broadcasters from reaching potential viewers in their service areas.⁴⁸ There was concern that, absent the carriage obligation, DBS suppliers would carry primarily only major network affiliates. As a result, non-carried stations

⁴⁷ *Ibid.*

⁴⁸ Conference Report at 101.

would be faced with the same loss of viewership that Congress had previously found with respect to cable non-carriage.⁴⁹

42. The regime adopted by Congress in SHVIA for extending the satellite compulsory license to local broadcast signals is tailored to achieve these objectives. In the first place, while seeking to provide parity with cable, the requirements in SHVIA for the carriage of local stations are actually less onerous than for cable. While cable systems are required to carry *all* eligible local stations that elect must-carry, DBS suppliers are not obligated to carry *any* local signals. Similarly, assuming that programming rights are cleared either by the broadcaster or by the DBS supplier, the DBS supplier is free to carry any local signal it chooses with no carriage obligation. *Only if* the DBS supplier elects to avail itself of the royalty-free license under Section 122 does it incur the obligation to carry the signals of other local stations in that market.

43. To be sure, copyright negotiations would involve significant transactions costs. Nevertheless, the DBS industry, with more than 15 million subscribers, is now large enough to facilitate the development of market mechanisms to obtain such clearances. In particular, DBS suppliers could offer inducements to the four major television networks and individual local broadcast stations to obtain copyright clearances that apply to satellite, as well as over-the-air distribution. These inducements could include commitments to carry stations that would otherwise not be carried. They might also involve monetary payments in excess of what DBS suppliers would pay for retransmission consent.

44. This process would not be unwieldy. It requires only that television networks and broadcast stations negotiate with the same copyright holders for licenses that have broader

⁴⁹ *Ibid.*

coverage. Of course, copyright holders could be expected to bargain for higher license fees in return for the greater coverage. The resulting higher license fees would then probably be passed on to the DBS suppliers.

45. Clearing copyrights in this manner might be costly to DBS suppliers, which would no longer be getting a royalty-free license. DBS suppliers would, however, avoid any carriage obligations that go along with a royalty-free license.

46. In deciding on the carriage provisions in SHVLA, Congress expressly considered—and ruled out—other approaches, including the reliance on the use of off-air antennas. Congress was concerned that a licensing scheme that facilitated carriage solely of the four major networks but not local independents would encourage DBS subscribers to opt not to incur the additional expense of installing and maintaining a separate antenna just for viewing independent stations. The resulting loss in viewership would cause these stations to be weakened, and valuable local programming options would be jeopardized. As Congress stated, “...trading the benefits of the copyright license for the must carry requirement is a fair and reasonable way of helping viewers have access to all local programming while benefiting satellite carriers and their customers.”⁵⁰

V. PROMOTING COMPETITION IN THE MARKET FOR MULTICHANNEL VIDEO PROGRAMMING IN ORDER TO REDUCE COSTS TO CONSUMERS

47. The use of parallel copyright licensing schemes for cable and DBS suppliers that are similar but take account of differences between the two distribution technologies is an effective means of promoting competition and furthering the goal of reducing the cost to consumers of both cable and satellite service. Cable system operators have been able to exercise

⁵⁰ Conference Report at 102.